

# Senate Study Bill 1037 - Introduced

SENATE/HOUSE FILE \_\_\_\_\_  
BY (PROPOSED JUDICIAL BRANCH  
BILL)

## A BILL FOR

- 1 An Act relating to donations and charitable contributions in a
- 2 criminal proceeding.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1     Section 1. NEW SECTION. 901.11 Donations — prohibited.

2     A monetary or property donation to any agency, organization,  
3 or political subdivision of the state is prohibited as a part  
4 of any deferred prosecution, dismissal, sentence, or other  
5 penalty.

6     Sec. 2. Section 907.13, subsection 2, Code 2013, is amended  
7 to read as follows:

8     2. The defendant's plan of community service, the comments  
9 of the defendant's probation officer, and the comments of  
10 the representative of the judicial district department of  
11 correctional services responsible for the unpaid community  
12 service program, shall be submitted promptly to the court.  
13 The court shall promptly enter an order approving the plan or  
14 modifying it. Compliance with the plan of community service  
15 as approved or modified by the court shall be a condition of  
16 the defendant's probation. The court thereafter may modify the  
17 plan at any time upon the defendant's request, upon the request  
18 of the judicial district department of correctional services,  
19 or upon the court's own motion. ~~As an option for modification~~  
20 ~~of a plan, the court may allow a defendant to complete some~~  
21 ~~part or all of the defendant's community service obligation~~  
22 ~~through the donation of property to a charitable organization~~  
23 ~~other than a governmental subdivision. A donation of property~~  
24 ~~to a charitable organization offered in satisfaction of some~~  
25 ~~part or all of a community service obligation under this~~  
26 ~~subsection is not a deductible contribution for the purposes of~~  
27 ~~federal or state income taxes.~~

28     Sec. 3. Section 910.1, subsection 2, Code 2013, is amended  
29 by striking the subsection.

30     Sec. 4. Section 910.1, subsection 4, Code 2013, is amended  
31 to read as follows:

32     4. "*Restitution*" means payment of pecuniary damages to  
33 a victim in an amount and in the manner provided by the  
34 offender's plan of restitution. "*Restitution*" also includes  
35 fines, penalties, and surcharges, ~~the contribution of funds to~~

1 ~~a local antierime organization which provided assistance to law~~  
2 ~~enforcement in an offender's case,~~ the payment of crime victim  
3 compensation program reimbursements, payment of restitution  
4 to public agencies pursuant to section 321J.2, subsection  
5 13, paragraph "b", court costs including correctional fees  
6 approved pursuant to section 356.7, court-appointed attorney  
7 fees ordered pursuant to section 815.9, including the expense  
8 of a public defender, and the performance of a public service  
9 by an offender in an amount set by the court when the offender  
10 cannot reasonably pay all or part of the court costs including  
11 correctional fees approved pursuant to section 356.7, or  
12 court-appointed attorney fees ordered pursuant to section  
13 815.9, including the expense of a public defender, and payment  
14 to the medical assistance program pursuant to chapter 249A for  
15 expenditures paid on behalf of the victim resulting from the  
16 offender's criminal activities including investigative costs  
17 incurred by the Medicaid fraud control unit pursuant to section  
18 249A.7.

19 Sec. 5. Section 910.2, Code 2013, is amended to read as  
20 follows:

21 **910.2 Restitution or community service to be ordered by**  
22 **sentencing court.**

23 1. In all criminal cases in which there is a plea of  
24 guilty, verdict of guilty, or special verdict upon which a  
25 judgment of conviction is rendered, the sentencing court  
26 shall order that restitution be made by each offender to the  
27 victims of the offender's criminal activities, to the clerk  
28 of court for fines, penalties, surcharges, and, to the extent  
29 that the offender is reasonably able to pay, for crime victim  
30 assistance reimbursement, restitution to public agencies  
31 pursuant to section 321J.2, subsection 13, paragraph "b",  
32 court costs including correctional fees approved pursuant  
33 to section 356.7, court-appointed attorney fees ordered  
34 pursuant to section 815.9, including the expense of a public  
35 defender, when applicable, ~~contribution to a local antierime~~

1 ~~organization~~, or restitution to the medical assistance program  
2 pursuant to chapter 249A. However, victims shall be paid in  
3 full before fines, penalties, and surcharges, crime victim  
4 compensation program reimbursement, public agencies, court  
5 costs including correctional fees approved pursuant to section  
6 356.7, court-appointed attorney fees ordered pursuant to  
7 section 815.9, including the expenses of a public defender,  
8 ~~contributions to a local anticrime organization~~, or the  
9 medical assistance program are paid. In structuring a plan  
10 of restitution, the court shall provide for payments in the  
11 following order of priority: victim, fines, penalties, and  
12 surcharges, crime victim compensation program reimbursement,  
13 public agencies, court costs including correctional fees  
14 approved pursuant to section 356.7, court-appointed attorney  
15 fees ordered pursuant to section 815.9, including the expense  
16 of a public defender, ~~contribution to a local anticrime~~  
17 ~~organization~~, and the medical assistance program.

18 2. When the offender is not reasonably able to pay all or a  
19 part of the crime victim compensation program reimbursement,  
20 public agency restitution, court costs including correctional  
21 fees approved pursuant to section 356.7, court-appointed  
22 attorney fees ordered pursuant to section 815.9, including the  
23 expense of a public defender, ~~contribution to a local anticrime~~  
24 ~~organization~~, or medical assistance program restitution, the  
25 court may require the offender in lieu of that portion of  
26 the crime victim compensation program reimbursement, public  
27 agency restitution, court costs including correctional fees  
28 approved pursuant to section 356.7, court-appointed attorney  
29 fees ordered pursuant to section 815.9, including the expense  
30 of a public defender, ~~contribution to a local anticrime~~  
31 ~~organization~~, or medical assistance program restitution for  
32 which the offender is not reasonably able to pay, to perform  
33 a needed public service for a governmental agency or for a  
34 private nonprofit agency which provides a service to the youth,  
35 elderly, or poor of the community. When community service is

1 ordered, the court shall set a specific number of hours of  
2 service to be performed by the offender which, for payment  
3 of court-appointed attorney fees ordered pursuant to section  
4 815.9, including the expenses of a public defender, shall be  
5 approximately equivalent in value to those costs. The judicial  
6 district department of correctional services shall provide for  
7 the assignment of the offender to a public agency or private  
8 nonprofit agency to perform the required service.

9 Sec. 6. Section 915.100, subsection 2, paragraph e, Code  
10 2013, is amended to read as follows:

11 e. Victims shall be paid in full pursuant to an order  
12 of restitution, before fines, penalties, surcharges, crime  
13 victim compensation program reimbursement, public agency  
14 reimbursement, court costs, correctional fees, court-appointed  
15 attorney fees, or expenses of a public defender, ~~or~~  
16 ~~contributions to local anticrime organizations are paid.~~

17 EXPLANATION

18 This bill relates to donations made in a criminal  
19 proceeding. The bill prohibits any donation to an agency,  
20 organization, or political subdivision of the state as part  
21 of any deferred prosecution, dismissal, sentence, or other  
22 penalty. The bill eliminates a provision allowing a criminal  
23 defendant to make a donation to a charitable organization in  
24 lieu of performing community service. The bill also eliminates  
25 provisions allowing a contribution by a criminal defendant  
26 to a local anticrime organization as part of the offender's  
27 restitution plan.